

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

WARREN McCOWAN,

Plaintiff,

v.

No. 17-cv-00902

THE CITY OF LAS CRUCES, NEW
MEXICO A/K/A LAS CRUCES POLICE
DEPARTMENT And MARK MORALES,

Defendants.

NOTICE OF REMOVAL

Defendants City of Las Cruces and Mark Morales (collectively “Defendants”), by and through undersigned counsel, MILLER STRATVERT P.A. (Cody R. Rogers), pursuant to 28 U.S.C. § 1446(a), give Notice of Removal to this Court of the above-captioned action, currently pending in the Third Judicial District, County of Doña Ana, State of New Mexico as *Warren McCowan v. The City of Las Cruces, New Mexico a/k/a Las Cruces Police Department and Mark Morales*, D-307-CV-2017-02158. In support thereof, Defendants state as follows:

1. This action was commenced by the filing of Plaintiff’s “Complaint for Civil Rights Violations and Tort Claims” (“Complaint”) on July 21, 2017. Plaintiff’s Complaint was served on the City of Las Cruces on July 31, 2017. Officer Morales was served on August 2, 2017. A true and correct copy of Plaintiff’s Complaint is attached hereto as **Exhibit A**.

2. Plaintiff’s Complaint alleges claims or violations of rights arising under the Constitution and laws of the United States, and brings such claims pursuant to 42 U.S.C. § 1983. See Exhibit A at p. 6-8. This Court has original jurisdiction over this action pursuant to 28 U.S.C.

§ 1331 and this action is properly removable under 28 U.S.C. § 1441(a). This Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367(a).

3. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) as it is filed within thirty (30) days of service of Plaintiff's Complaint on Defendants.

4. The remaining process, pleadings and orders served upon the Defendants in this matter are attached hereto as **Exhibit B**, and consist of:

- a. Summons issued to City of Las Cruces
- b. Jury Request
- c. Order Requiring Scheduling Reports, A Discovery Plan, Expert Witness Disclosure, and Limiting Stipulations to Enlarge Time for Responsive Pleadings

5. In accordance with 28 U.S.C. § 1446(d), Defendants are serving this Notice of Removal on Plaintiff through his attorney of record and will file a copy of this Notice of Removal with the Clerk of the Third Judicial District, County of Doña Ana, State of New Mexico, where the state court lawsuit is pending, along with a Notice of Filing of Notice of Removal.

6. A Civil Cover Sheet is attached hereto as **Exhibit C**.

Respectfully submitted,

MILLER STRATVERT P.A.

By 

Cody R. Rogers

*Attorneys for City of Las Cruces and Mark
Morales*

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I HEREBY CERTIFY that on the 30th day of August, 2017, I filed the foregoing pleading electronically through the Odyssey File & Serve system, and caused the following parties or counsel to be served by electronic means:

Attorney for Plaintiff

James D. Tawney
Flores, Tawney & Acosta, P.C.
1485 N. Main St., Suite B
Las Cruces, NM 88001

A handwritten signature in black ink, appearing to read "Cody Rogers", is written over a horizontal line.

Cody R. Rogers

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